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08/203,004 02/28/94 BERD

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EXAMINER

KRSEK STAPLES, J

ART UNIT

PAPER NUMBER

1813

DATE MAILED:

12/14/94

18N1/1214
PHILIP S. JOHNSON/LORI Y. BEARDELL
WOODCOCK WASHBURN KURTZ
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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

For restriction purposes only

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire one month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-31 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☐ Claims _____ are rejected.

5. ☐ Claims _____ are objected to.

6. ☒ Claims 1-31 are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-10, drawn to a method for treating cancer comprising administering cyclophosphamide, an irradiated composition and an adjuvant, classified in Class 424, subclass 277.1.
- II. Claims 11-20, drawn to a method for treating cancer comprising administering cyclophosphamide, an irradiated composition, an adjuvant, and a cytokine classified in Class 424, subclass 85.1.
- III. Claim 21, drawn to a method for treating cancer comprising administering cyclophosphamide, a haptenized, irradiated composition, a non-haptenized irradiated composition, and adjuvant, classified in Class 424, subclass 277.1.
- IV. Claims 22-31, drawn to a pharmaceutical composition, classified in Class 424, subclass 277.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are materially different methods requiring different method steps. The administration of cytokines in the method of Group II is not required in either the method of Group I or the method of group III. Group III requires the administration of both a haptenized and a non-haptenized irradiated composition. In the methods of Groups I and II the irradiated composition may either be haptenized or non-haptenized but both compositions are not administered together.

If Inventions I, II or III are elected, Invention IV will be examined with the elected group because it is a pharmaceutical composition which may be used in any of the above methods.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

A telephone call was made to Lori Beardell on December 7, 1994 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Staples whose telephone number is (703) 305-7556.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Papers related to this application may be submitted to Group 180 by facsimile transmission via the PTO Fax Center, located in Crystal Mall 1. The Fax Center number is

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(703) 308-4227. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

JKS
Julie K. Staples, Ph.D.
December 12, 1994



CHRISTINE M. NUCKER
SUPERVISORY PATENT EXAMINER
GROUP 180